

**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY**

WRIT PETITION NO.15110 of 2006

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Between:

Thotakura Narasimha Rao S/o Venkatanarayana
R/o Nandivelugu Village, Tenali Mandal,
Guntur District.

...Petitioner

A n d

The Government of Andhra Pradesh rep. by its
Principal Secretary, Revenue Department,
Secretariat Buildings, Hyderabad and others

...Respondents

:: ORDER ::

Counsel for the Petitioner : Sri M.Srinivasa Rao

Counsel for respondents 1 to 4 : Government Pleader for
Revenue

Counsel for respondent No.5 : Sri M.Prabhakar Rao

Counsel for respondent No.6 : Government Pleader for
Fisheries

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27th July, 2006

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Per G.S.Singhvi, C.J

In this petition, filed in the name of public interest, the petitioner has prayed for issue of a direction to the respondents to lay down road through the pathway in Sy.No.52 of village proramboke of Nandivelugu village, Tenali Mandal, Guntur District.

The petitioner, who has given out his age to be 85 years, claims that for the past several decades, Survey No.52 is being used as pathway. According to him, the land forming part of said survey number is village poramboke and despite the decision taken by the district administration to lay road, the concerned authorities have not taken steps in that direction.

In the course of hearing, we asked the learned counsel to show any document in which the land in question has been recorded as village poramboke or any other evidence from which it can be inferred that the petitioner and other members of the public have a right to use Sy.No.52 as a pathway, but he could not draw our attention to any such document or other evidence. We also asked the learned counsel to show as to what action his client or any other public representatives have taken, in furtherance of communication dated 29.5.2003 sent by District Collector, Guntur to Mandal Revenue Officer, Tenali, in the matter of formation of road. In reply, learned counsel stated that several representations have been made by the public representatives for laying of the road. However, from the record,

we could neither find the dates on which the representations are said to have been made nor the copies of the so-called representations annexed with the affidavit of the petitioner. It can, thus, be said that the petitioner has invoked the jurisdiction of this Court without doing his primary duty of collecting material, which may enable the Court to entertain his prayer in a correct prospective.

It is well settled that a person, who seeks intervention of the Court by invoking its jurisdiction under Article 226 of the Constitution of India is under an onerous duty not only to file comprehensive pleadings but also make efforts to collect material necessary for supporting his cause. In petitions filed in the name of public interest, the rigor of this duty is more intense. In **Guruvayur Devaswom Managing Committee v. C.K.Rajan**^[1], the Supreme Court, after referring to several judicial precedents, culled out the following guiding principles for entertaining petitions filed in public interest:

- (i) The Court in exercise of powers under Art.32 and Art.226 of the Constitution of India can entertain a petition filed by any interested person in the welfare of the people who is in a disadvantaged position and, thus, not in a position to knock the doors of the Court. The Court is constitutionally bound to protect the fundamental rights of such disadvantaged people so as to direct the State to fulfill its constitutional promises.
- (ii) Issues of public importance, enforcement of fundamental rights of large number of public vis-à-vis the constitutional duties and functions of the State, if

raised, the Court treat a letter or a telegram as a public interest litigation upon relaxing procedural laws as also the law relating to pleadings.

(iii) Whenever injustice is meted out to a large number of people, the Court will not hesitate in stepping in. Articles 14 and 21 of the Constitution of India as well as the international Conventions on Human Rights provide for reasonable and fair trial.

(iv) The common rule of locus standi is relaxed so as to enable the Court to look into the grievances complained on behalf of the poor, deprived, illiterate and the disabled who cannot vindicate the legal wrong or legal injury caused to them for any violation of any constitutional or legal right.

(v) When the court is prima facie satisfied about variation of any constitutional right of a group of people belonging to the disadvantaged category, it may not allow the State or the Govt. from raising the question as to the maintainability of the petition.

(vi) Although procedural laws apply on PIL cases but the question as to whether the principles of res judicata or principles analogous thereto would apply depend on the nature of the petition as also facts and circumstances of the case.

(vii) The dispute between two warring groups purely in the realm of private law would not be allowed to be agitated as a public interest litigation.

(viii) However, in an appropriate case, although the petitioner might have moved a Court in his private

interest and for redressal of the personal grievances, the Court in furtherance of the public interest may treat it necessary to enquire into the state of affairs of the subject of litigation in the interests of justice.

(ix) The Court in special situations may appoint Commission, or other bodies for the purpose of investigating into the allegations and finding out facts. It may also direct management of a public institution taken over by such Committee. The Court will not ordinarily transgress into a policy. It shall also take utmost care not to transgress its jurisdiction while purporting to protect the rights of the people from being violated.

(x) The Court would ordinarily not step out of the known areas of judicial review. The High Courts although may pass an order for doing complete justice to the parties, it does not have a power akin to Art.142 of the Constitution of India.

(xi) Ordinarily the High Court should not entertain a writ petition by way of Public Interest Litigation questioning constitutionality or validity of a statute or a Statutory Rule.

The trend of judicial precedents for the last two years is also indicative of the concern expressed by the Supreme Court against the increasing number of petitions filed in the name of public interest though the real object of such litigation is to gain cheap publicity or espouse personal interests.

Since the petitioner has failed to prima facie show that the land

in question is village poramboke, we do not consider it proper to entertain the prayer made by him and dismiss the writ petition. However, liberty is given to the petitioner or any other public spirited person to represent to the government for construction of road by showing that the same will not affect the rights of any individual or group of individuals.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

27th July 2006
svs

[\[1\]](#) AIR 2004 SUPREME COURT 561